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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,832	07/21/2000	ANDREAS GIEFER	67526	2069

23872 7590 04/22/2004

MCGLEW & TUTTLE, PC  
1 SCARBOROUGH STATION PLAZA  
SCARBOROUGH, NY 10510-0827

EXAMINER
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LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3682

1. In response to the Order Returning Undocketed Appeal to Examiner on April 7, 2004, the Examiner respectfully submits that page 14 of the Examiner's Answer on December 2, 2002 identified: (a) the names of the conferees: (1) Supervisor of Patent Examiner David Bucci; and (2) Primary Examiner Lennard Footland; and (b) the date of the appeal conference, i.e., November 20, 2002. The only missing item is the conferees' initials. The Examiner has secured the conferees' initials on April 20, 2004 as seen in the attached copy in order to retroactively comply with MPEP 1208 (8<sup>th</sup> ed., Rev. 1, February 2003). The application hereby is forwarded to the Board of Patent Appeals and Interference for decision on appeal.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

April 20, 2004



Vinh T. Luong  
Primary Examiner

Art Unit: 3682

portion in claim 27, the signal transmitters and receivers in claims 32 and 35, the permanent magnets and Hall sensors in claim 33, *etc.* However, appellant's statements are unsupported by any anecdotal data or evidence, such as, affidavits, declarations, cited patents, and/or publications, *etc.* The examiner is mindful that an expert's opinion on the ultimate legal issue must be supported by something more than a conclusory statement. *In re Buchner*, 18 USPQ2d 1331, 1332 (CAFC 1991). In the absence of factual data, the Court has long emphasized the rule that the Patent Office will reject a patent application that fails to satisfy *any* one of the statutory requirements. See *Gentry Gallery, Inc. v. Berkline Corp.*, 45 USPQ2d 1948 (CAFC 1498)(patent invalid for failing to comply with the written description requirement), and *Enzo Biochem, Inc. v. Calgene, Inc.*, 52 USPQ2d 1129 (CAFC 1999)(patent invalid because the claims were not enabled).

For the above reasons, it is believed that the rejections under this ground of 35 USC 112, first paragraph, should be sustained.

With respect to appellant's arguments regarding appellant's issues 4-6, these issues are petitionable matter, thus, they are not addressed herein.

Respectfully submitted,

Vinh T. Luong  
Primary Examiner  
Conferees on November 20, 2002:

Supervisory of Patent Examiners David Bucci

and Primary Examiner Lennard Footland

